

# **SALES AND USE TAX REVIEW COMMISSION**

## **RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:** A-17

**DATE OF  
INTRODUCTION:**10/30/2000

**SPONSOR:** Assemblyman Asselta

**DATE OF  
RECOMMENDATION:**2/26/01

**IDENTICAL BILL:** S-1727

**COMMITTEE:** Assembly Commerce, Tourism, Gaming and Military Veterans

### **DESCRIPTION:**

The bill would extend the life of an Urban Enterprise Zone after the expiration of its third five year period of designation as such if the municipality has a stated unemployment rate or is contiguous to a Zone that meets that unemployment test. The bill would also authorize an additional joint Zone that would apply to North Wildwood City, Wildwood City, Wildwood Crest Borough and West Wildwood Borough in Cape May County. Qualifying retailers in the extended Zones and new Zone would be authorized to charge and collect 3% sales tax; the 3% tax collections would be returned to the pertinent municipality according to a formula provided in the bill.

### **ANALYSIS:**

The existing Urban Enterprise Zones Act has certain provisions that divert qualifying 3% sales tax collections to municipal coffers, and this bill is an attempt to retain this source of municipal funding for certain municipalities that have an Urban Enterprise Zone that will expire soon. Another purpose of the bill is to establish an entirely new joint Zone in four municipalities. By extending the duration of some of the

current Zones and adding a new one, the bill is extending two of the significant problems with the Zone program: municipal dependence on the Act's municipal financing and the Zones creating resentment and possible economic recession in neighboring municipalities that lack the Zone designation.

Although the bill proposes to extend the duration of some Zones and create an additional one, the bill does not provide a strong justification for either proposal. The existing Urban Enterprise Zones Act allows Zones to exist for 20 years and prohibits Zone renewal. Thus, the Act appears to be predicated on the concept that twenty years of tax incentives should be sufficient to achieve the program's objectives. The bill does not adequately explain why 20 years was not long enough to achieve the program's goals.

Because qualifying businesses in the zones may charge 3% sales tax instead of 6%, any perpetuation or proliferation of the Urban Enterprise Zones poses a constitutional problem. It is unconstitutional to charge higher use tax, in a municipality, than the sales tax imposed within the municipality. Because of this constitutional restriction, in municipalities where Zone businesses charge 3% sales tax, use tax on purchases made from out-of-state retailers is also only 3%. Thus, not only does the 3% sales tax harm businesses in nearby municipalities, but also it gives a tax break to non-New Jersey retailers. The bill would allow these problems to continue.

The bill does not explain why the four Wildwood shore towns need Urban Enterprise Zone tax incentives. Further, three of those towns are currently benefiting from a 2% additional tax on tourism related receipts. It may be difficult to justify also giving the 3% sales tax collections to those municipalities. Additionally, under the bill, those municipalities will have 3 different sales tax rates: 3% for qualifying Zone reduced rate receipts; 8% for the pertinent tourism related receipts; and 6 % for non-UEZ and non-tourism related receipts. The bill makes the sales tax so complicated that correctly collecting the taxes and completing the tax returns could be a significant burden to the affected businesses and significantly offset the benefits offered by the Zone program.

#### **RECOMMENDATION:**

The Commission does not recommend enactment of this bill.

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**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 7**

**COMMISSION MEMBERS ABSTAINING: 0**

**COMMISSION MEETING DATE: 2/14/01**